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10/785,383

02/24/2004

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EXAMINER

LU, JIPING

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

10/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,383

Applicant(s)

STORRER ET AL.

Examiner

Jiping Lu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/24/07 has been entered.

Election/Restrictions

2. Claims 24-42 have been treated as elected invention of combination of mat and vacuum system a vacuum mat. The previous restriction between combination and subcombination remains.

Specification

3. The amendment filed 9/24/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the added paragraph of "The mat supports ... region 210" at line 9 of page 30 is new matter which is not supported by the originally filed specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

4. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 22-40 have been renumbered as 24-42, respectively. Claims 22-23 presented in the amendment filed 4/3/06 and 7/17/06 have been canceled. The following rejections are based on the renumbered claims 24-42.

5. The renumbered claim 34 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Currently, claim 32 depends on a canceled claim 1.

6. Claim 24 is objected to because of the following informalities: claim 24, line 3, please change "map" to --mat--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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8. Claims 24-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed nonporous section and protrusions engagable with the structural surface for supporting the mat on the structural surface and permitting fluid flow between the lower surface of the mat and the structural surface in claims 24 and 33, the claimed protrusions with uniform depth and uniform spacing in claims 25-26, the claimed second section surrounds the first section in claim 28, the claimed housing including a sealing surface sealably engagable with the first and second structural surfaces in claim 35, and the claimed housing having a first sealing surface, a second sealing surface, a third sealing surface and a fourth sealing surface and the claimed locations among four sealing surfaces as claimed in claims 38-40 are new matters which are not supported by the originally filed specification.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 24-30, 32-36, 38-41 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a vacuum source/means for removing unwanted moisture from a structure.

Claim Rejections - 35 USC § 102

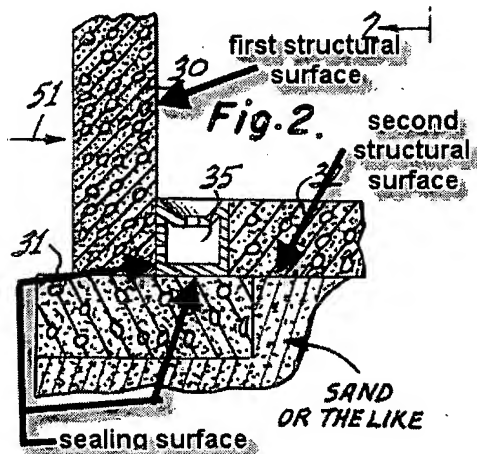
11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 24-29, 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Komata (JP 08042148 A).

Komata shows an apparatus for removing unwanted moisture from a structure G including a structural surface C comprising a vacuum mat 7 having an upper surface (top side of 7) and a lower surface (underside of 7) and a first nonporous section (see Fig.1, left and right side of 7), the first section including an array of protrusions 3 engagable with the structural surface C for supporting the mat on the structural surface and permitting fluid flow between the lower surface of the mat 7 and the structural surface, a second section (center section of 7) having a vacuum port (not numbered, see Fig. 1) providing fluid communication through the mat, a vacuum source 8 attachable to the vacuum port which are arranged same as claimed. The protrusions 3 are of uniform depth and provide substantially uniform spacing between the lower surface of mat and the structural surface.

13. Claims 33-34 and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Mendola (U. S. Pat. 4,185,429).

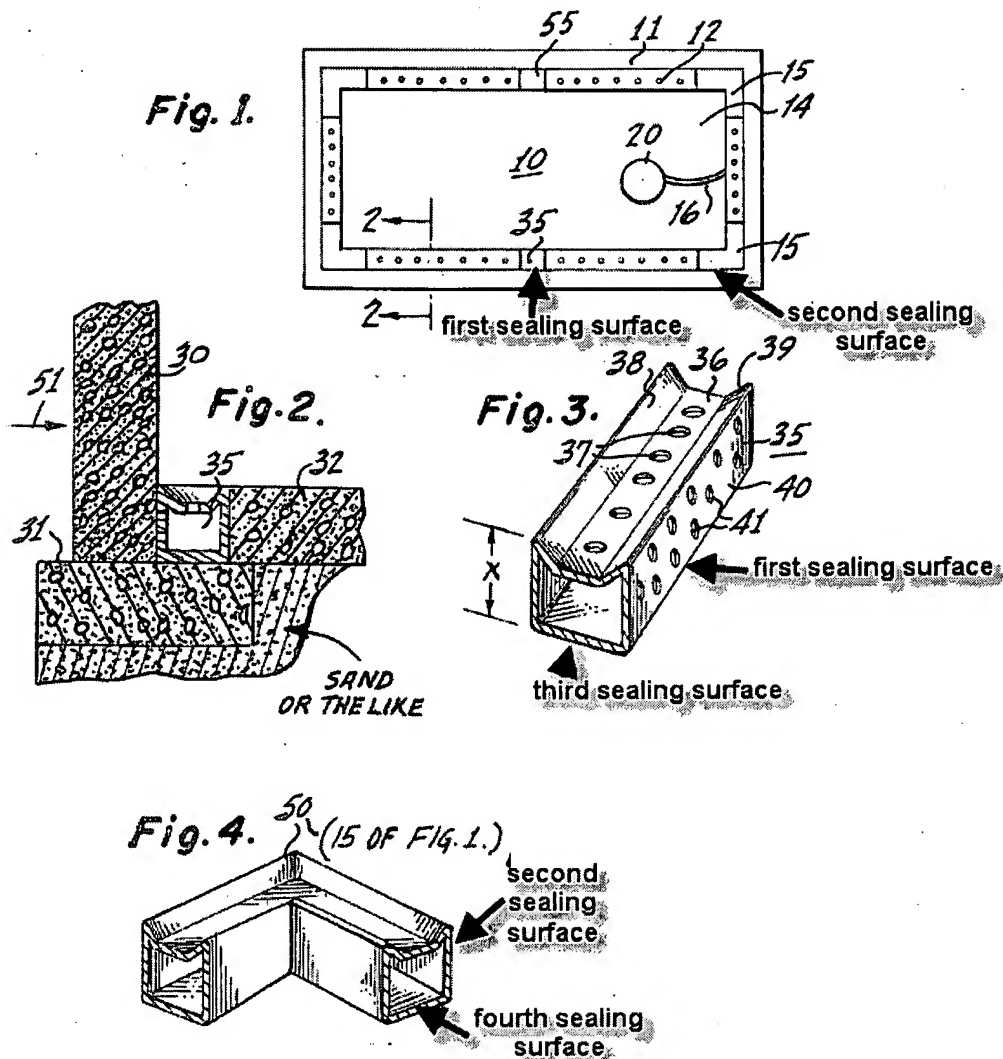
For claim 33, Mendola shows an apparatus for removing unwanted moisture from a structure, the structure including first and second substantially orthogonal structural surfaces 30, 31, the apparatus comprising a housing 35 including a sealing surface sealably engagable with the first and second structural surfaces (see Fig. 2 below).



For claim 36, Mendola shows an apparatus 15, 35, 55 for removing unwanted moisture from a structure 10, the apparatus comprising a housing having a first sealing surface, a second sealing surface, a third sealing surface and a fourth sealing surface which are arranged same as claimed (see Figs. 1-4 below).

With regard to claims 34 and 39, a hole formed in the bottom of a pipe such as 35 of Fig. 3 and connected to pipe 16 (col. 5, lines 29-31) is considered to be vacuum port.

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Claim Rejections - 35 USC § 103

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A) in view of Wenander (U. S. Pat. 4,203,714).

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The moisture removing apparatus of Komata as above includes all that is recited in claim 30 except for the second section surrounds the first section. Wenander shows a system for removing moisture comprising a vacuum mat 8 with a first section including an array of protrusions 9 and a second section having vacuum ports 7. The second section surrounds the first section (see Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the moisture removing apparatus of Komata to include a mat with second section surrounds the first section as taught by Wenander in order to pursue an intended use.

16. Claims 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A).

Komata discloses a moisture removing apparatus same as claimed except for using a housing for removing the water from a surface. However, it would have been obvious to one skill in the art at the time the invention was made to substitute a housing for the vacuum mat of Komata for removing the water from a surface since applicants admitted that embodiment of the claimed design Figs. 11, 12, 13A (directed towards claims 35-42) is obvious variation of the embodiment as claimed in Figs. 3A, 7, 8A, 9 (directed towards claims 24-34) to one ordinary skill in the art therefore the claims 35-42 and claims 24-34 are not separate and distinct (see last line of page one of the election filed on 8/15/05).

17. Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429) in view of Forte (U. S. Pat. 3,426,487).

The apparatus of Mendola as above includes all that is recited in claims 37 and 42 except for a vacuum source attachable to the vacuum port. Forte teaches an apparatus for removing

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unwanted moisture from a structure including a vacuum source 74 attachable to a vacuum port 40 for creating suction and efficiently and quickly remove water from the wall structure same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Mendola to include a vacuum source as taught by Forte in order to efficiently and quickly remove the water or moisture from the structure.

18. Claims 24-30, 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429).

Mendola discloses a moisture removing apparatus same as claimed except for using a vacuum mat for removing the water from a surface. However, it would have been obvious to one skill in the art at the time the invention was made to substitute a vacuum mat for the housing of Mendola for removing the water from a surface since applicants admitted that embodiment of the claimed design in Figs. 3A, 7, 8A, 9 (directed towards claims 24-30, 32-34) is obvious variation of the embodiment as claimed design in Figs. 11, 12, 13A (directed towards claims 35-36, 38-41) to one ordinary skill in the art therefore the claims 24-30, 32-34 and claims 35-36, 38-41 are not separate and distinct (see last line of page one of the election filed on 8/15/05).

19. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429) in view of Forte (U. S. Pat. 3,426,487).

The apparatus of Mendola as above includes all that is recited in claim 29 except for a vacuum source attachable to the vacuum port. Forte teaches an apparatus for removing unwanted moisture from a structure including a vacuum source 74 attachable to a vacuum port 40 for creating suction and efficiently and quickly remove water from the wall structure same as

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claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Mendola to include a vacuum source as taught by Forte in order to efficiently and quickly remove the water or moisture from the structure.

Response to Arguments

20. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEVEN B. MCALLISTER can be reached on 571 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jiping Lu
Primary Examiner
Art Unit 3749

J. L.